

### **Remarks**

Claims 14-26 are currently pending in this case. The following remarks are in response to the outstanding Office Action mailed November 20, 2007.

#### **Section 103 Rejection Based on Wells**

Claims 14-18, 20-23, 25 and 26 stand rejected under 35 U.S.C. §103 as being unpatentable over Wells (US 2002/0115487 A1, hereinafter Wells). Applicant respectfully traverses the rejection with respect to individual claims as addressed below.

Regarding claim 14, the Office Action states that Wells discloses a gaming system comprising a first gaming device (fig. 1, 22); and a second gaming device (fig. 1, 22), wherein the first and second gaming devices exchange information associated with wagers placed by first and second players on each respective gaming machine (fig. 1) in order to determine a total jackpot, wherein determination of whether the first player won is performed by the first gaming device (page 1, [0005]; total jackpot is transmitted to each gaming machine and may be displayed to a player in each gaming machine), and wherein determination of whether the second player won is performed by the second gaming device independent of the first gaming device (page 1, [0005]; total jackpot is transmitted to each gaming machine and may be displayed to a player in each gaming machine).

The Office Action continues stating Wells does not explicitly disclose a system wherein “determination of whether the first player has won, and the total jackpot amount to be paid to the first player is performed by the controller of the first gaming device,” or a similar “determination of whether a second player has won and the total jackpot amount to be paid to the second player, is performed independently of the first gaming device, by the controller of the second gaming

device.”

The Office Action continues, however, indicating that Wells discloses a system wherein gaming devices are connected through a network and are very capable of exchanging information data with each other to determine the player who wins and the jackpot amount to be paid as claimed. The Office Action then indicates it would have been obvious to a person of ordinary skill to upgrade the software program of Wells to have individual gaming devices exchanging information about wagers and determining the winning player and the total amount instead of a gateway “because it would eliminate the need for a communication transfer between the gateway and the gaming device therefore shortening the amount of time that the player has to wait to determine winning amount.”

Initially, Applicant traverses this rejection because for a *prima facie* case of obviousness, all the elements claimed must be shown in one or more references. See MPEP 2142. The Office Action itself indicates that Wells is missing elements including a determination of whether a player has won and the jackpot amounts in separate first and second gaming devices. The Office Action maintains that the missing elements are within the knowledge of a person of ordinary skill. Applicant has submitted a Declaration of Carmen DiMichele Under Rule 132 (hereinafter the 132 Declaration), wherein Mr. DiMichele, believed to be a person of ordinary skill as indicated by paragraphs 1-6 of the 132 Declaration, indicates such knowledge is not within the realm of a person of ordinary skill in the art. See the 132 Declaration paragraphs 8-10 in particular. Applicant therefore respectfully requests that the Examiner cite a reference showing this material to be within the knowledge of a person of ordinary skill. Without disclosure of all claim elements by the cited references, claim 14 is believed allowable under 35 U.S.C. § 103 as non-obvious over Wells.

Further, Applicant maintains that a simple modification of a gateway system, such as Wells, to allow individual gaming devices to award bonuses would fail to operate in an acceptable manner and, thus, a person of ordinary skill in the art would not look to make such a modification. Items such as security and payment of a progressive bonus when more than one machine wins at a time as described in applicant's specification beginning on page 11, last paragraph, will not be accounted for by a simple modification of Wells. Regarding security, if one gaming machine is offline from the system, yet still operating it can award a bonus without notifying the remaining machines. Further, no steps such as splitting the bonus between simultaneous winners described on page 13, lines 7-11 and forward, are taken into account when multiple machines can declare bonuses. Such a modified Wells system failing to reasonably function is noted in paragraph 8 of the 132 Declaration. Accordingly, with a modified Wells system being unworkable, claim 14 is further believed allowable under 35 U.S.C. § 103 as non-obvious over Wells.

Further, Applicant maintains that the Office Action's stated purpose of combining Wells with knowledge of a person of ordinary skill "because it would eliminate the need for a communication transfer ... between the gateway and the gaming device therefore shorten the amount of time that the player has to wait to determine winning amount" is flawed because by eliminating the transfer with the gateway timing is at least the same and may actually be lengthened. With multiple machines indicating a bonus, to prevent multiple bonus declarations, a gaming system is typically shut down for a period of time while a central computer adjusts an award available and provides this information to other computers on the link. See Applicant's disclosure on page 3, lines 15-23. With an individual computer declaring a bonus and making calculations, the individual computer must now be shut down longer while it gathers information

to makes the bonus recalculation itself and distribute that information instead of the central controller performing the task. Alternatively, the system will take the same amount of time but each gaming machine is made more complex since each must now perform the function of the central controller. In any case, the timing is not improved and the resulting system will be a poor improvisation, and not more efficient, as explained in the 132 Declaration paragraphs 9-13. Accordingly, no motive to modify Wells claim 14 is further believed allowable under 35 U.S.C. §103 as non-obvious over Wells.

Further, Wells' disclosure of each gaming device communicating with a central controller actually teaches away from an inter-gaming machine information transfer, since with the central controller providing calculations there is no need to do so in a gaming device. Wells indicates that the machines communicate with, for example, a central host (Wells, paragraph 0067) or a security monitoring system (Wells, Figs. 3 and 4, paragraph 0068) which are devices that perform centralized operation independent of, and to the exclusion of the individual gaming machines. With these components, thus, there is no need for a transfer of wager information among gaming machines, as claimed in claim 14. Accordingly, Wells does not teach every element of claim 14, and actually teaches away, so claim 14 is believed allowable under U.S.C. §103 as non-obvious over Wells.

Regarding independent claim 18, it includes elements similar to claim 14 including "determining" in individual gaming devices whether a jackpot has been won, and transferring information about wagers between gaming devices. Based on the above remarks with respect to these elements in claim 14, Applicant maintains that claim 18 is likewise allowable under 35 U.S.C. § 103 as non-obvious over Wells.

Regarding the remaining rejected claims under Section 103, based at least on the allowability of independent claims 14 and 18 in the remarks above, Applicant respectfully submits that these dependent claims 15-17, and 19-26 are likewise allowable under 35 U.S.C. §102 as not anticipated by Wells.

### **Section 103 Rejection Based on Wells in view of Lockton**

Claim 19 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Wells in view of Lockton (US 5,083,800). (Note the Lockton patent number 5,083,800 is erroneously listed in the Office Action as 5,083,400). The Office Action states that Wells does not disclose broadcasting a parameter block when conditions change at any gaming device, and updating the parameter block according to the broadcast; and broadcasting the updated parameter block from the gaming device to other gaming devices. The Office Action, however, continues stating that Lockton does disclose such broadcasting and updating, and that it would have been obvious to provide this in combination with Wells to provide an improved game of skill to enable play simultaneously by several participants remote from each other. This rejection is respectfully traversed.

Initially in response, claim 19 is believed allowable based at least on its dependency on dependent claim 18, which is believed allowable as indicated in the remarks regarding the Section 102 rejection above.

Further, the language of claims 18 and 19 requires “determination” of a jackpot in separate individual gaming devices which is not disclosed in either of Lockton or Wells. Lockton discloses a system that interconnects gaming devices that do not determine, calculate or pay jackpots. Wells similarly does not make a determination of jackpots in individual gaming

machines, and instead relies on a central controller. The fact that a combination of Lockton and Wells does not disclose all of Applicant's claim elements, and even without including all applicant's elements would not be a reasonable combination for a person of ordinary skill is supported by the 132 Declaration paragraphs 14-17. To maintain a *prima facie* case of obviousness, all the elements claimed must be shown in one or more references. See MPEP 2142. The references should be reasonably combinable by a person of ordinary skill. Without disclosure of all claim elements by the cited references, and without reasonably combinable references, claim 19 is believed allowable under 35 U.S.C. § 103 as non-obvious over Wells in view of Lockton.

### **Allowable Subject Matter**

Claim 24 stands objected to as being dependent upon a rejected base claim, but is indicated to be allowable in independent form. Based on the above remarks regarding allowability of claim 14 on which claim 24 depends, Applicant maintains that claim 24 is allowable in dependent form.

### **Conclusion**

Based on the foregoing remarks, all of pending claims 14-26 are believed in condition for allowance. Accordingly reconsideration and allowance of pending claims 14-26 is respectfully requested.

No fee is believed due with this Amendment. The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: February 20, 2008

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